

Munni Lal Vs. Emperor

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Court : Allahabad

Decided On : Aug-13-1943

Reported in : AIR1943All344

Appellant : Munni Lal

Respondent : Emperor

Judgement :

Plowden, J.

1. This is an appeal from the judgment of the Additional Sessions Judge of Etawah, dated 8th April 1943. The prosecution case is that on 28th November 1942, Munni Lal and his nephew, Megh Nath, went to the Khalyan of Hajju and Jwali who are indebted to them and demanded their money. The Chamars said that they were unable to pay. The accused chased them inside the courtyard and Megh Nath aimed a lathi blow at Hajju and knocked him down. Munni Lal sat on his chest and began to strangle him and would not desist in spite of the entreaties of his relations. Suddenly Hajju died. Jwali went to the Thana and made a report at 4 P.M. Megh Nath denies his presence but Munni Lal admits that he went to the Chamars' house and demanded money, whereupon he and Hajju grappled with one another and Hajju fell down and he fell on top of him. In other words, Munni Lal practically admits that he was responsible for Hajju's death. According to the doctor, Hajju's death was caused by shock and internal bleeding due to the rupture

of spleen which was considerably enlarged. The other injuries including fracture of ribs and of the wind-pipe would not have been sufficient to cause his death if his spleen had not been ruptured. The fact that he had an enlarged spleen was not known to Munni Lal or apparently to his own relations. It is impossible to believe that Munni Lal could have knocked down this young Chamar, sat on his body and pressed his throat unless he had been accompanied by his nephew who is also a young man and who after knocking down Hajju was able to prevent his relations from assisting him. Megh Nath was convicted under Section 334, Penal Code, and has not appealed.

2. The learned Judge has found considerable difficulty in coming to any conclusion about the appropriate section and has convicted under Section 335. Munni Lal, however, is clearly guilty of culpable homicide under Section 304, second part. This must be read with the last few words of Section 299 and has no reference to Section 300 or to the exceptions mentioned therein and must not be confused with culpable homicide not amounting to murder. When a man kneels on the body of another and presses his throat with great violence he knows he is likely to cause death and if death results of strangulation, the knowledge merges into intention and he is guilty of murder under Section 300 firstly, unless he can obtain the benefit of any of the exceptions to Section 300. In my opinion, Munni Lal was not entitled to the benefit of any exception. But the medical evidence shows that Hajju would not have died if his spleen had not been enlarged. If Munni Lal had known that Hajju's spleen was enlarged, he would have been guilty of murder under Section 300 secondly. Death must have occurred almost immediately, otherwise these Chamars would not have allowed Hajju to be killed before their eyes even if Megh Nath was prepared to prevent them to the best of his ability. The rapidity of death and the ignorance of Hajju's disability involve this legal consequence that Munni Lal's knowledge stopped short of intention. When death has occurred, it is obviously unsatisfactory to find a man guilty of grievous hurt and the Legislature has taken into consideration that the intention to cause grievous hurt may be a more serious moral offence than the knowledge that death is likely to occur by making imprisonment obligatory under Section 325 and not under Section 304, Part 2. I consider this is one of those cases of culpable homicide in which a long term of imprisonment is not necessary because Hajju's injuries would not have

been serious if he had survived. I, therefore, reduce the sentence of imprisonment to the period already undergone and maintain the fine of Rs. 1000, but I increase the compensation to be paid to Hajju's widow from Rs. 250 to Rs. 500, in default two years' rigorous imprisonment. The conviction is altered from one under Section 335 to one under Section 304, Part 2, Penal Code.

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